Remarks/Arguments

Status of Claims

Claims 1-71, 79-83 and 104-109 are pending.

Claims 72-78 and 84-103 are canceled.

Claims 1-71, 79-83, 104 and 107-108 stand rejected.

Claims 105-106 and 109 stand objected to.

Claims 1, 11, 23, 30, 36, 79, 80, 104-105 and 107-109 have been amended, without prejudice or disclaimer.

Interview

The undersigned thanks Examiner Alam for the courtesy of an interview conducted on November 22, 2010, with the undersigned. In the interview, possible changes to claim language to overcome the rejections were discussed. It was agreed that Applicant would submit a written amendment.

Allowable Subject Matter

The indication that claims 105, 106 and 109 include allowable subject matter, and are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, is gratefully acknowledged.

Claim Amendments

In accordance with reissue practice, only the claims amended by the present amendment are listed. Wording to be added relative to the issued patent is underlined, and wording to be removed relative to the issued patent is bracketed.

Claim 1 has been amended to remove the limitation "employing an inhibition mechanism" in line 7. The wording "employing by the processor definitions associated with the request and correspondence between the definitions and information in the database" has been substituted for the canceled wording. The new wording has been

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taken from claim 105 prior to the present amendment. Support in the original patent may be found, for example, at col. 8, lines 3-43.

Claim 1 has further been amended to recite, in line 3, the wording "in a memory device"; in lines 5-6, "by a processor in communication with the memory device"; in line 7, "by a processor"; in line 8, "by a processor." Support in the original patent may be found, for example, in Fig. 1 and col. 2, lines 51 to 64.

Claim 11 has been amended to cancel the limitation "employing an inhibition mechanism" in line 8. The wording "employing definitions associated with the request and correspondence between the definitions and information in the database" has been substituted for the canceled limitation in lines 8-10. Support is found as described above with respect to claim 1.

Claim 23 has been amended to add "by a processor" in line 4 and "by the processor" in line 5. Support in the original patent may be found, for example, in Fig. 1 and col. 2, lines 51 to 64.

Claim 23 has been amended to change "information, relative to said cues" in line 4-5 to "response data." Support may be found, for example, at col. 11, lines 57-67.

Claim 23 has further been amended to add "perceptible to a viewer during viewing of the media program" to clarify the term "sequence of cues." Support may be found, for example, at col. 10, lines 40-67. Claim 23 has also been amended to change "said received information to said sequence of cues" to "said received response data to said sequence of cues to determine viewing and comprehension of the media program." Support may be found, for example, at col. 12, line 1 to col. 13, line 40.

Claim 30 has been amended to add the limitation: "defining a sequence of temporal positions for the media elements, the media elements being selected for each position in the template in accordance with correspondence between definitions associated with each position and the information in the database" in lines 8-11. The new wording has been substantially taken from claim 105 prior to the present amendment. Support in the original patent may be found, for example, at col. 8, lines 3-43.

Claim 36 has been amended to add the limitation: "defining a sequence of temporal positions for the media elements, the media elements being selected for each position in the template in accordance with correspondence between definitions associated with each position and the information in the database" in lines 6-10. The new wording has been substantially taken from claim 105 prior to the present amendment. Support in the original patent may be found, for example, at col. 8, lines 3-43.

Claim 79 has been amended to remove the limitation "an inhibition layer" in line 5 and "inhibition layer" in line 10. The following limitations have been added: "in a memory device" in line 2; "and organizational elements" in lines 2-3; "by a processor" in line 5; "by the processor" in line 7; "at least one of the organizational elements," and ""by the processor employing the organizational element" in line 10.

Support is found for the memory device and processor limitations in Fig. 1 and col. 2, lines 51 to 64, for example.

Support for the organizational elements may be found, for example at col. 3, line 66, to col. 4, line 38. The term "organizational elements" is employed at col. 4, lines 22-23 to refer directly to modules and sequences and indirectly to templates.

Claim 80 has been amended to remove the limitations: "an inhibition mechanism," in line 6, and "the inhibition mechanism" in line 9. Claim 80 has been amended to add "employing an organizational element having a sequence of temporal positions and definitions associated with each of the temporal positions" in lines 6-8 and "using the sequence of temporal positions" in line 11. Support may be found, for example, at col. 3, line 66 to col. 4, line 38 and col. 8, lines 2-42 of the issued patent.

Claim 104 has been amended to cancel the wording "the inhibition mechanism comprises a template" in lines 1-2 and insert "the definitions associated with the request are further associated with temporal positions." Support may be found in claim 105 prior to amendment, and in col. 8, lines 2-42 of the issued patent.

Claim 105 has been amended to cancel the wording "wherein the template defines a sequence of temporal positions for media elements, the media elements being selected for each position in the template in accordance with correspondence between

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definitions associated with each position and the information in the database" and insert "wherein the temporal positions are in a sequence defined by a template stored in the database." Claim 105 has merely been amended to remove wording now recited in amended base claims 1 and 104, without changing the scope of claim 105.

Claim 107 has been amended to remove the wording "wherein the inhibition mechanism is configured to select" and insert therefor "wherein the selecting comprises selecting." This amendment renders claim 107 consistent with amended base claim 1, and does not change the scope of claim 107.

Claim 108 has been amended for consistency with amended base claim 11 to remove the wording "the inhibition mechanism comprises a template" and insert "the definitions associated with the request are further associated with a template." Support may be found, for example, in claim 105 prior to amendment and in col. 8, lines 2-42 of the issued patent.

Claim 109 has been amended for consistency with amended base claims 11 and 108 to remove the wording in lines 2-4: "the media elements being selected for each position in the template in accordance with correspondence between definitions associated with each position and the information in the database." This amendment does not change the scope of claim 109.

Rejection of Claims 1, 23, 30, 79 and 80 Under 35 U.S.C. 101

Claims 1, 23, 20, 79 and 80 stand rejected under 35 U.S.C. 101 as directed to non-statutory subject matter.

In response, claim 1 has been amended to recite that the database is maintained in a memory device, and that the selecting steps are performed by a processor. Support in the original patent may be found, for example, in Fig. 1 and col. 2, lines 51 to 64.

Claim 23 has been amended to recite that the receiving and comparing steps are performed by a processor. Support in the original patent may be found, for example, in Fig. 1 and col. 2, lines 51 to 64.

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Claim 30 has been amended to recite that the selecting steps are performed by a processor. Disclosure support may be found, for example, in Fig. 1 and col. 2, lines 51 to 64.

Claim 79 has been amended to recite that certain steps are performed by a processor. Disclosure support may be found, for example, in Fig. 1 and col. 2, lines 51 to 64.

Claim 80 has been amended to recite that certain steps are performed by a processor. Disclosure support may be found, for example, in Fig. 1 and col. 2, lines 51 to 64.

In view of the foregoing amendments, the rejection under 35 U.S.C. 101 should be withdrawn.

Rejection of Claims 1, 11, 23, 79 and 80 Under 35 U.S.C. 112, Second Paragraph

Claims 1, 23, 20, 79 and 80 stand rejected under 35 U.S.C. 112, Second Paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 1 and 11, the Office Action states that it is not clear how an "inhibition mechanism" operates to select fewer than all the media elements in the database responsive to the request and selecting the temporal organization as in claims 1 and 11.

Solely for the purpose of advancing the case to allowance, and without prejudice or disclaimer, including without limitation without prejudice to the right to amend claims 1 and 11 in the present application to the wording prior to this amendment, or to introduce claims having the same or substantially the same wording as claims 1 and 11 prior to amendment in a continuing application, Applicant has amended claims 1 and 11 to remove the wording "inhibition mechanism." Accordingly, the rejection under 35 U.S.C. 112, Second Paragraph, of claims 1 and 11, has been overcome.

As to claim 80, the Office Action states that it is not clear how selecting, employing an "inhibition mechanism" a first possible media item automatically from said plurality of possible media items.

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Solely for the purpose of advancing the case to allowance, and without prejudice or disclaimer, including without limitation without prejudice to the right to amend claim 80 in the present application to the wording prior to this amendment, or to introduce one or more claims having the same or substantially the same wording as claim 80 prior to amendment in a continuing application, Applicant has amended claim 80 to remove the wording "inhibition mechanism." Accordingly, the rejection under 35 U.S.C. 112, Second Paragraph, of claim 80, has been overcome.

As to claim 79, the Office Action states that it is not clear how selecting, employing an "inhibition layer" to limit the selected media elements to fewer than all the media elements in the database responsive to the request, a first media element with a first attribute value.

Solely for the purpose of advancing the case to allowance, and without prejudice or disclaimer, including without limitation without prejudice to the right to amend claim 79 in the present application to the wording prior to this amendment, or to introduce one or more claims having the same or substantially the same wording as claim 79 prior to amendment in a continuing application, Applicant has amended claim 79 to remove the wording "inhibition mechanism." Accordingly, the rejection under 35 U.S.C. 112, Second Paragraph, of claim 79, has been overcome.

As to claim 23, the Office Action states "It is not clear how to providing in said media program a sequence of cues; and receiving from a viewer of said media program information relative to said cues."

The rejection is unclear, as the rejection merely states that "it is not clear how" and then quotes claim language, with the mere addition of bold in "a sequence of cues" and "said cues." As the rejection is unclear, if the Office maintains the Section 112, Paragraph 2 rejection of claim 23, it is respectfully requested that such rejection be made non-final, as the failure of the Office to provide a clear rejection has not provided the Applicant with a proper opportunity to address the rejection.

Solely for the purpose of advancing the case to allowance, and without prejudice or disclaimer, including without limitation without prejudice to the right to amend claim 23 in the present application to the prior wording, or to introduce claims having the

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same or substantially the same wording as claim 23 prior to amendment in a continuing application, claim 23 has been amended to recite that the cues are perceptible to the viewers during viewing of the program, that response data is received from the viewers, and that the response data is compared to the sequence of cues to verify viewing and comprehension. The term "cues" is defined in the specification, and may be "alphanumeric or comprise a series of images, icons, colors or sonic cues" as stated at col. 10, lines 50-54.

Accordingly, the rejection under 35 U.S.C. 112, Second Paragraph, of claim 23, has been overcome.

Rejection of Claims 1-35, 36-41, 47, 50-51, 57, 67, 79, 80-83, 104, 107 and 108 under 35 U.S.C. 103(a)

Claims 1-22, 30-35, 36-41, 47, 50-51, 57, 66, 67, 79, 80-83, 104, 107 and 108 stand rejected under 35 U.S.C. 103 as being unpatentable over U.S. Patent No. 5,864,868 (Contois) in view of European Patent Publication No. 0564247 (Ubillos).

As to amended claim 1, the rejection is respectfully traversed for at least the reason that Contois fails to teach at least the limitations:

> automatically selecting a plurality of said media elements in response to a request for media programming, and automatically selecting a temporal organization for said selected media elements, employing by the processor definitions associated with the request and correspondence between the definitions and information in the database to select fewer than all the media elements responsive to the request, said temporal organization not being dictated by said selected information;

The underlined language is similar to wording selected from claim 105 prior to amendment.

Contois teaches a system that provides for database searches that return *all* of the songs responsive to the search. For example, the user may cause the interface to display only music related to a selected category, a selected composer, a selected artist, or a selected music piece (col. 4, lines 44-67). All of the media elements responsive to the request are returned.

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The method as recited in claim 1 employs definitions associated with the request and information in the database to select fewer than all the media elements. Advantageously, the method of claim 1 provides a method performed by a processor to provide programming that uses definitions that may reflect the judgment of an editor. In a non-limiting embodiment, the definitions may be contained in organizational elements, such as templates, sequences and modules, associated by the processor with the request. For example, in the example of a template for programming for instructional pieces, the template may include definitions in the nature of a sequence of subjects for material selected by an instructional designer (e.g., col. 4, lines 15-21). The selection of a template by a processor in response to the request associates the definitions of the template with the request.

Contois lacks the capacity to return fewer than all the songs responsive to each request, and lacks any definitions associated with the request to select fewer than all the songs.

In further contrast to the method as recited in claim 1, Contois permits the user to select *manually* each piece of music. For example, at col. 11, lines 33-36:

> Another feature of the preferred embodiment regards the creation of a specialized list of music pieces to be played on the player piano. In operation, once a piece of music is selected, a user may activate the button labeled "Add to Song List," which is located at the bottom center of each screen. By using this button, a user can create their own personal record album or compact disk that contains only those songs that have been individually selected. Thereby, the player piano can be directed to play each song one after the other in sequence or in a random order.

In the creation of song lists in Contois, each song must be individually and manually selected by the user.

Contois even defines "selecting" as meaning manual selection. Contois states, at col. 9, lines 30-35:

> It is pointed out that term of "selecting" means that a pointer or cursor, which is illustrated as a white arrow in FIG. 3 that is located on a song title, is placed over the desired item while the user usually clicks a mouse button once or twice. The pointer is also known as a selection means.

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Thus, "selecting" in Contois means manually placing a pointer or cursor on a song title while the user clicks a mouse button.

Ubillos similarly lacks any disclosure of automatic selection by a processor of a plurality of media elements.

To the contrary, Ubillos discloses *manual* selection of stored video clips in a temporal organization dictated *by the user*, as explained, for example, at col.3, lines 31-36:

> The user instructs the computer to assemble a video program from the stored video clips (and optionally also stored audio clips and clips representing still image images or text) by arranging displayed clips and displayed special effect icons in a desired sequence along the time ruler.

Ubillos thus clearly requires manual selection of clips and manual arrangement of clips in a sequence.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of claim 1, as amended, is respectfully requested.

Claims 2-10 depend ultimately from allowable base claim 1, and are allowable at least by virtue of their dependence from an allowable base claim.

As further grounds for reconsideration and withdrawal of the rejection of claim 5, neither Contois nor Ubillos discloses tags associated with media elements, at least one of the tags being a content tag and at least one of the tags being a control tag containing other information. The Office Action cites to col. 8, line 57 to col. 9, line 9 of Ubillos, which merely relates to the user dragging thumbnails of selected clips to a construction window. This step of Ubillos relates to the manual arrangement by the user of clips into a video program, and not to tags associated with media elements.

As further grounds for reconsideration and withdrawal of the rejection of claim 6, neither Contois nor Ubillos discloses control tags containing transition information. The Office Action cites to col. 7, lines 5-12 of Ubillos, which merely recites that the user may select stored clips, and that the microprocessor generates an image for the clip. No

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mention is made of transition information in the cited portion of Ubillos. In Ubillos, transitions may be applied to video clips by the user in the process of constructing a video. (see, e.g., col. 10, lines 49-53). This is a manual process in Ubillos. For example, Ubillos states, at col. 15, lines 8-10: "Microprocessor 31 is preferably programmed to enable a user to select a special effect transition icon..." Similarly, Ubillos states, at col. 16, line 58, to col. 17, line 3, "The user determines the type of the transition by dragging a selected icon from a special effects menu (which can be the menu described above with reference to Fig. 12) to area 80." Thus, Ubillos makes clear that the user selects the transitions. There are no tags associated with media elements having transition information in Ubillos.

As further grounds for reconsideration and withdrawal of the rejection of claim 7, neither Contois nor Ubillos discloses control tags containing a luminance range for a portion of an audiovisual clip. The Office Action cites Ubillos at col. 7, lines 19-31, which indicates text for a video clip including size and clip duration, but does not mention luminance.

As further grounds for reconsideration and withdrawal of the rejection of claim 8, neither Contois nor Ubillos discloses deselecting elements based on information in control tags as part of an automatic selection process. The Office Action cites to Contois, col. 11, lines 54-67 and col. 12, lines 1-36. Contois discloses manual selection and deselection of music pieces from playlists, such as by using a "Delete Song" button (col. 11, lines 56-58). Use of control tags, as recited in claim 8, relates to automatic selection and deselection of media elements. Ubillos similarly, as discussed above, discloses manual selection of video clips.

As further grounds for reconsideration and withdrawal of the rejection of claim 9, neither Contois nor Ubillos disclose selecting transitions based on transition information associated with each of the elements and transition rules. The Office Action cites to col. 11, lines 54-67 and col. 12, lines 1-36 as teaching the limitations of claim 9.

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Contrary to the Office Action, neither these portions of Contois, nor any other portion of Contois, discloses transitions. Contois merely discloses playlists, and nowhere discloses transitions between adjacent music pieces. Ubillos discloses manual selection of transitions, as described, for example, at col. 10, lines 49-53. There is no reference to transition information associated with each of the elements and transition rules in Ubillos.

As further grounds for reconsideration and withdrawal of the rejection of claim 10, neither Contois nor Ubillos discloses using demographic information in automatic selection of media elements. Neither of those references discloses demographic information or automatic selection of media elements.

Claim 11 is an independent claim which has been amended similarly to claim 1. For substantially the reasons discussed above with reference to claim 1, Contois and Ubillos, either alone or in combination, fail to teach the limitations of amended claim 11.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of claim 11, as amended, is respectfully requested.

Claims 12-22 depend ultimately from allowable base claim 11, and are allowable at least by virtue of their dependence from an allowable base claim.

Claim 15 is similar to claim 5, and is allowable at least both by virtue of its dependence from allowable base claim 11 and the reasons set forth above for withdrawal of the rejection of claim 5.

As further grounds for reconsideration and withdrawal of the rejection of claim 16, neither Contois nor Ubillos teaches control tags containing information indicating permitted transition points in an audiovisual clip. Contois does not teach transitions. Ubillos does not teach permitted transition points.

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Claim 17 is similar to claim 7, and is allowable at least both by virtue of its dependence from allowable base claim 11 and the reasons set forth above for withdrawal of the rejection of claim 7.

Claim 18 is similar to claim 8, and is allowable at least both by virtue of its dependence from allowable base claim 11 and the reasons set forth above for withdrawal of the rejection of claim 8.

Claim 19 is similar to claim 9, and is allowable at least both by virtue of its dependence from allowable base claim 11 and the reasons set forth above for withdrawal of the rejection of claim 9.

Claim 20 is similar to claim 10, and is allowable at least both by virtue of its dependence from allowable base claim 11 and the reasons set forth above for withdrawal of the rejection of claim 10.

As further grounds for reconsideration and withdrawal of the rejection of claim 22, neither Contois nor Ubillos discloses selection means that prevents a user from selecting or ordering said media elements. To the contrary, the user of Contois selects music pieces to create playlists; the user of Ubillos selects video clips to create an edited video program.

With respect to claim 23, as amended, the rejection is respectfully traversed.
Contrary to the Office Action, Contois does not teach the recited sequence of cues in the program, or receiving response data, and comparing response data to a sequence of cues to verify viewing and comprehension. Ubillos fails to cure the deficiencies of Contois.
For at least the foregoing reasons, reconsideration and withdrawal of the Section 103 rejection of claim 23 is respectfully requested.

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Claims 24-29 depend from claim 23, and are allowable at least by virtue of their dependence from an allowable base claim.

In addition, the rejection of claims 24-29 merely states "the subject matter of claims ... 24-29... are rejected in the analysis above in claims 1-10, 23, 42-29 and 66-71 and these claims are rejected on that basis." As none of the other noted claims has the same limitations as claims 24-29, the rejection is incomplete as failing to identify the elements of the claims in the prior art, and failing to articulate a basis for the combination of those elements. For this additional reason, the rejection of claims 24-29 should be withdrawn.

The rejection of independent claim 30, as amended, is respectfully traversed.

Claim 30 has been amended, without prejudice or disclaimer, to incorporate the wording:

> "defining a sequence of temporal positions for the media elements, the media elements being selected for each position in the template in accordance with correspondence between definitions associated with each position and the information in the database."

This wording is taken from claim 105 prior to the present amendment. As claim 105 has been indicated as setting forth allowable subject matter, with this amendment, claim 30 is allowable.

For completeness of response, Applicant notes that neither Contois nor Ubillos teaches at least the limitation:

> automatically selecting from a database containing information concerning said media elements a plurality of said media elements and automatically designating a temporal sequence for said selected media elements, the selecting and designating employing a template defining a sequence of temporal positions for the media elements, the media elements being selected for each position in the template in accordance with correspondence between definitions associated with each position and the information in the database;

Neither Contois nor Ubillos teaches a template as recited in amended claim 30, including a sequence of temporal positions for the media elements, and the selecting of the media elements for each position in the template in accordance with

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correspondence between definitions associated with each position and the information in the database . As discussed above in connection with claim 1, Contois simply returns all elements responsive to a request for programming, and Ubillos provides for manual selection and ordering of media elements.

For at least this reason, reconsideration and withdrawal of the rejection of claim 30 is respectfully requested.

As further independent and sufficient grounds for withdrawal of the rejection of claim 30, neither Contois nor Ubillos discloses the limitation:

> automatically selecting transitions for each of said media elements to create a file of element identifiers and transition information for creation of media programming

As discussed above in connection with claim 6, Contois does not teach transitions at all. Ubillos teaches manually selected transitions, as discussed above in connection with claim 6.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of claim 30 is respectfully requested.

Claim 31 depends from allowable base claim 30, and is allowable at least by virtue of its dependence from this allowable base claim.

Claim 32 depends from allowable base claim 30, and is allowable at least by virtue of its dependence from this allowable base claim. In addition, reconsideration and withdrawal of the rejection of claim 32 is respectfully requested on the grounds that neither Contois nor Ubillos teaches "wherein said transitions are selected based on information relating to permitted transitions associated with each of said elements." Contois, as noted above, does not teach transitions at all. Ubillos does not teach information relating to permitted transitions associated with elements.

Claim 33 depends from allowable base claim 30, and is allowable at least by virtue of its dependence from this allowable base claim.

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Claim 34 depends from allowable base claim 30, and is allowable at least by virtue of its dependence from this allowable base claim. In addition, reconsideration and withdrawal of the rejection of claim 34 is respectfully requested on the grounds that neither Contois nor Ubillos teaches "said information comprises a range of permitted transition points at the beginning and end of a plurality of said elements." Contois, as noted above, does not teach transitions at all. Ubillos does not teach information relating to permitted transition points of elements.

Claim 35 depends from claim 34, and is allowable at least by virtue of its dependence from allowable base claims 30 and 34. In addition, reconsideration and withdrawal of the rejection of claim 35 is respectfully requested on the grounds that neither Contois nor Ubillos teaches "said information comprises an earliest permitted transition point, a default transition point, and a latest permitted transition point." Contois, as noted above, does not teach transitions at all. Ubillos does not teach information relating to earliest, default and latest permitted transition points of elements.

Amended claim 36 is an independent claim. Similarly to claim 30, claim 36 has been amended to recite: "defining a sequence of temporal positions for the media elements, the media elements being selected for each position in the template in accordance with correspondence between definitions associated with each position and the information in the database." As discussed above in connection with claim 30, the addition of this wording from claim 105 prior to amendment renders claim 36 allowable.

For completeness of response, as with claim 30, neither Contois nor Ubillos, either alone or in combination, teach the limitation:

> means including a processor for automatically selecting from a database containing information concerning said media elements a plurality of said media elements and automatically designating a temporal sequence for said selected media elements, the selecting and designating employing a template defining a sequence of temporal positions for the media elements, the media elements being selected for each position in the template in accordance with correspondence between definitions associated with each position and the information in the database

or the limitation:

> means including a processor for automatically selecting transitions for each of said media elements.

Accordingly, reconsideration and withdrawal of the rejection of claim 36 is respectfully requested.

Claim 37 depends from allowable base claim 36, and is allowable at least by virtue of its dependence from this allowable base claim.

Claim 38 is similar to claim 32, and is allowable at least both by virtue of its dependence from allowable base claim 36 and the reasons set forth above for withdrawal of the rejection of claim 32.

Claim 39 depends from allowable base claim 36, and is allowable at least by virtue of its dependence from this allowable base claim.

Claim 40 is similar to claim 34, and is allowable at least both by virtue of its dependence from allowable base claim 36 and the reasons set forth above for withdrawal of the rejection of claim 34.

Claim 41 depends from claim 40, and is similar to claim 35. Claim 41 is allowable at least by virtue of its dependence from allowable base claims 36 and 40, and the reasons set forth above for withdrawal of the rejection of claim 35.

Claim 47 depends from claim 1, and is allowable at least by virtue of its dependence from an allowable base claim. In addition, reconsideration and withdrawal of the rejection of claim 47 is respectfully requested on the grounds that neither Contois nor Ubillos teaches "obtaining desired content information concerning an intended viewer of the programming," or "employing said desired content information in said step of selecting." Contois does not teach anything relating to an intended viewer.

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Accordingly, Contois cannot teach automatic selection employing said desired content information. Although the Office Action cites col. 4, lines 39-67 as teaching these limitations, careful review of this passage of Contois does not reveal these limitations. Ubillos fails to teach these limitations; by way of example, Ubillos, as noted above, does not teach automatic selection at all.

Claims 50 and 51 are allowable at least by virtue of their dependence from allowable base claim 11. In addition, reconsideration and withdrawal of the rejections of claim 50 and 51 is respectfully requested on the grounds that neither Contois nor Ubillos teaches deriving said selected information from said media assets, as to claim 50, or automatically deriving said selected information from said media assets (as to claim 51. In Contois, the database appears to be pre-populated, see, e.g., col. 9, lines 53-61, which lists the four categories of data that may be accessed from the player piano data base. In Ubillos, no process of deriving selected information from the media assets for use in selecting assets is disclosed.

Claim 66 is allowable at least by virtue of its dependence from allowable base claim 1.

Claim 67 is allowable at least by virtue of its dependence from allowable base claim 1. In addition, reconsideration and withdrawal of the rejection of claim 67 is respectfully requested on the grounds that neither Contois nor Ubillos teaches "obtaining psychographic information concerning an intended viewer of the programming prior to said step of selecting, and employing said psychographic information in said step of selecting." Contois, as noted above with reference to claim 1, teaches manual selecting, and accordingly does not teach using psychographic information in the step of selecting. Ubillos similarly teaches user selection of video clips, as explained above with reference to claim 1. Although the Office Action cites col. 4, lines 39-67 as teaching these limitations, careful review of this passage of Contois does not reveal these limitations.

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Claim 79 has been amended to recite a database containing organizational elements, and employing the organizational elements for selection of media elements and determining a temporal order.

Neither Contois nor Ubillos discloses a database containing organizational elements.

Furthermore, Contois does not employ organizational elements in selection of media elements or determining a temporal order.

Ubillos provides for manual selection of media elements, and thus does not teach the recited organizational elements.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of amended claim 79 is respectfully requested.

Claim 80 has been amended similarly to claim 79 to recite organizational elements. As discussed above in connection with claim 79, neither Contois nor Ubillos teaches the recited organizational elements.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of claim 80 is respectfully requested.

Claim 81 is allowable at least by virtue of its dependence from allowable base claim 80. As further grounds for reconsideration and withdrawal of the rejection of claim 81, neither Contois nor Ubillos teaches at least "collecting an information item related to said user; and selecting said attribute parameter using said information item." In Contois, the user selects music pieces; no information item related to a user is collected or used. In Ubillos, the user selects and orders video clips; no information item related to a user is collected or used.

Claims 82-83 depend from allowable base claim 80, and are allowable at least by virtue of their dependence from an allowable base claim.

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Claim 104, as amended, recites that definitions associated with the request are associated with temporal positions. Neither Contois nor Ubillos teaches this limitation. Contois does not teach any temporal positions associated with the request for songs. Ubillos, as discussed above, teaches only manual selection of clips, and thus does not teach definitions associated with a request or association of such definitions with temporal positions.

For at least this reason, in addition to its dependence from allowable base claim 1, allowance of claim 104 is respectfully requested.

Claim 107, as amended, recites an aggregate duration. Neither Contois nor Ubillos recites an aggregate duration for use in selecting media elements. Indeed, the Office Action fails to point to any portion of these references as teaching an aggregate duration.

For at least this reason, in addition to its dependence from allowable base claim 1, allowance of claim 107 is respectfully requested.

Claim 108, as amended, is allowable at least by virtue of its dependence from allowable base claim 11.

Rejection of Claims 42-46, 48, 49, 52-56, 60-65 and 68-71 under 35 U.S.C. 103(a)

Claims 42-46, 48, 49, 52-56, 60-65 and 68-71 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Contois in view of Ubillos and further in view of U.S. Patent No. 5,966,121 issued to John Hubbell et al ("Hubbell").

Claims 42-46 depend from allowable base claims 1 and 6, and are allowable at least by virtue of their dependence from allowable base claims.

Claim 48 depends from allowable base claims 1 and 6, and is allowable at least by virtue of its dependence from allowable base claims. As further grounds for reconsideration and withdrawal of the rejection of claim 48, Hubbell, contrary to the Office Action, fails to disclose a modification parameter used to modify a transition. The cited portion of Hubbell, col. 5, lines 17-25, is a definition of a "ruler," which is a region

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of a display interface which indicates the state of a hypervideo document, and does not mention transitions.

Claim 49 depends from allowable base claim 1, and is allowable at least by virtue of its dependence from an allowable base claim. As further grounds for reconsideration and withdrawal of the rejection of claim 49, Hubbell, contrary to the Office Action, fails to disclose obtaining desired style information concerning a viewer and employing the style information in the step of automatic selecting. Hubbell does not disclose automatic selection of media elements at all. The portion of Hubbell cited in the Office Action, col. 4, line 66 to col. 5, line 8, merely constitutes a definition of hypervideo editor, and does not teach employing style information concerning a viewer in automatic selecting of media elements.

Claims 52-56 depend from allowable base claims 11 and 16, and are allowable at least by virtue of their dependence from allowable base claims.

Claims 60-62 depend from allowable base claim 30, and are allowable at least by virtue of their dependence from allowable base claims.

Claims 63-65 depend from allowable base claim 36, and are allowable at least by virtue of their dependence from allowable base claims.

Claim 68 depends from allowable base claim 1, and is allowable at least by virtue of its dependence from an allowable base claim. As further grounds for reconsideration and withdrawal of the rejection of claim 68, Hubbell, contrary to the Office Action, fails to disclose filtering a first media element out of consideration for inclusion in media programming where the filtering is performed by a moderation layer. The portion of Hubbell cited in the Office Action, col. 5, lines 17-25, is a definition of a "ruler," which, as noted above in connection with claim 48, is a region of a display interface which indicates the state of a hypervideo document.

Claims 69-70 depend from allowable base claims 1 and 5, and are allowable at least by virtue of its dependence from allowable base claims.

Claim 71 depends from allowable base claims 1 and 5, and is allowable at least by virtue of its dependence from allowable base claims. As further grounds for reconsideration and withdrawal of the rejection of claim 71, Hubbell, contrary to the Office Action, fails to disclose a reusability tag. A reusability tag has information relating to the number of times, if any, a media element may be reused in media programming. Hubbell fails to mention such a tag.

Claims 105, 106 and 109

Claims 105 and 109 have been amended for consistency with amended base claims, and continue to recite the subject matter indicated in the prior Office Action as being allowable. Claim 106 has not been amended.

Summary

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Applicant reserves the right to introduce claims having the language of the claims in this application prior to this or any prior amendment, either in this application or in one or more continuation or divisional applications claiming the benefit of this application.

CONCLUSION

Having fully addressed the Examiner's objections and rejections it is believed that, in view of the preceding amendments and these remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited.

Respectfully submitted,

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